REMARKS

Claims 1-37 are pending in the application with claims 25-37 being withdrawn from consideration in response to a restriction requirement. Claims 1-3, 6-11 and 14-24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Mika et al. (6,233,4870.) Claims 4, 5, 12 and 13 have been indicated as being allowable if rewritten in independent form to include all of the limitations of the base claims and any intervening claims.

The rejection of claims 1-3, 6-11 and 14-24 as being anticipated by Mika et al. is respectfully traversed. It is submitted that the Mika reference fails to disclose the steps of applicants' claimed invention. Further, the teaching of Mika would not render applicants' claimed invention obvious.

Applicants' claimed invention as presented in independent claims 1, 9 and 17 is directed to a method for optimizing a set of cardiac pacing parameters. An iterative process is performed in which each of the pacing parameters under consideration is modified, either individually or as a set, and cardiac performance is measured. The process updates or changes the pacing parameters to reflect the measured cardiac performance and thus at least moves the set of pacing parameters in the direction of an optimum pacing parameter set.

The Mika patent is directed to a system for optimizing a set of alert windows and/or sensitivity level parameters in an excitable tissue controller (ETC) device. The alert window parameters are used for timing the delivery of ETC signals to the heart. An ETC device provides non-excitatory electrical stimulation pulses to excitable tissue such as cardiac tissue to, for example, increase or decrease cardiac contractility. See col. 1, lines 30-55. Unlike pacing pulses of a pacemaker, this non-excitatory electrical stimulation does not cause the heart to beat. More specifically, "The ETC signals must therefore be applied to the selected cardiac segment within a defined time interval during which **the selected cardiac segment will not be stimulated** by the ETC signals." Col. 2, lines 3-6 (emphasis added.) Thus, the process of the Mika patent is directed to optimizing the timing of the non-excitatory ETC signals by taking into account changes in the propagation velocity of depolarization waves in the heart. Col. 2, lines 33-37.
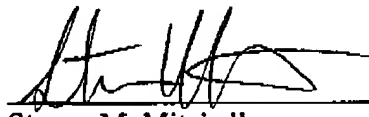
Mika does not teach, suggest or disclose a method of optimizing a set of pacing parameters. Nor does the Office Action point to anything in the Mika reference that would suggest optimizing pacing parameters, as opposed to alert window parameters. Thus, claims 1-3, 6-11 and 14-24 can not be anticipated by Mika. Withdrawal of the rejection and allowance of claims 1-24 is therefore respectfully requested.

Appl. No. 09/759,395
Amdt. Dated Nov. 24, 2003
Reply to Office action of Sept. 4, 2003

Respectfully submitted,
Robert Turcott, et al.

Date: __11/24/03__   By: __[signature]__

PACESETTER, INC.   Steven M. Mitchell
701 East Evelyn Avenue   Attorney for Applicants
Sunnyvale, CA 94086-6527   Registration No. 31,857
(408) 522-6101
(408) 738-0285 (fax)